the court there remarked that the nature of taxes is not affected by the fact that in some jurisdictions an action of debt may be instituted for their recovery.

The right to enforce the payment of taxes through the courts is certainly one which should be upheld, if possible; and the better reason, as well as numerous precedents, seem to do so. The logical result is well stated by Mr. Justice MILLER in *United States* v. *Pacific Railroad,* 4 Dill. 66, Fed. Cas. 15983,—"It is immaterial what you call the obligation of a citizen to pay his taxes; it is very clearly an obligation which may be enforced by the courts."

R. M. S.

LIABILITY OF A LIFE INSURANCE COMPANY WHEN THE INSURED IS EXECUTED FOR THE COMMISSION OF A CRIME.—Along with the tremendous growth and expansion of the life insurance business and the consequent necessity for expressing all the terms of the contract and reducing them to certainty it would seem either that the companies would before this have worded their policies so as to protect themselves against liability in case the insured should meet his death at the hands of the law, or that the courts would have settled that question so as to leave little room for litigation. But neither has been done. There are companies that do not provide against such contingencies, and the courts, although the adjudicated cases both in this country and in England are but three in number, are not uniform in their opinions. In December last the Supreme Court of Illinois decided that legal execution for a capital offense is no defense to an action brought by the executor of a deceased policy holder, the policy being silent as to such a contingency. *Collins* v. *Metropolitan Life Insurance Company,* 83 N. E. Rep. 542. (Decided December 17th; rehearing denied, February 7th.) The holding is clearly against that of the only other cases in point: *Amicable Society* v. *Bolland,* 4 Bligh (N. R.) 194 (1830); *Burt* v. *Insurance Co.,* 187 U. S. 362, 47 L. Ed. 216 (1902); *Collins* v. *Metropolitan Ins. Co., 27* Pa. Super. Ct. 353 (1905).

Aside from the insurance question involved, and the fact that it is one of first impression in Illinois, the case is interesting in that it brings the courts of two states, Illinois and Pennsylvania, sharply in conflict on the identical question raised in a suit between the same parties, the same case having come up in the latter state in 1905. The facts were as follows: One Kilpatrick, holding a five hundred ($500.00) dollar policy in the Metropolitan Life Insurance Company, was indicted for murder, tried, convicted and hanged. His executor, Collins, brought an action of assumpsit on the policy, and the Superior Court of Pennsylvania affirmed the decision of the common pleas (an appeal being taken from an interlocutory order) and held that an ordinary policy of life insurance containing no applicable provision is not a binding contract to insure against legal execution for crime, and dismissed the case without prejudice. *Collins* v. *Metropolitan L. Ins. Co., 27* Pa. Super. Ct. 353 (1905). In 1907 the plaintiff, Collins, actuated by zeal apparently disproportionate to the amount involved, brought suit against the Metropolitan Life Insurance Company in Illinois, and in December the case reached the supreme

court of the state and was decided for the plaintiff, on the same ground upon which the Pennsylvania court had based its judgment for the defendant—public policy.

The scope of the insurance business would naturally lead one to think that this question had come before the courts more than three times, but careful search has failed to discover more than that number of decisions directly in point. The first case was *Amicable Society* v. *Bolland,* supra, better known perhaps as the *Fauntleroy Case,* in which the court said that if the risk of execution for crime had been expressly insured against, and the event had occurred, the contract would have been void as against public policy; and to strengthen the basis of the holding the statement is made that any other way of looking at the question would result in removing one of the restraints on the commission of crime, "the interest we have in the welfare and prosperity of our connections." The conclusion is, obviously, that if an express contract such as that mentioned above is contrary to public policy, an implied contract to the same effect is just as much so and is unenforceable. VICKERS, J., in the principal case, distinguishes the *Fauntleroy Case* on the ground that the reasons on which that decision rests—attainder and corruption of blood for conviction of crime—no longer exist. The constitution of the state, providing that "no conviction shall work corruption of blood or forfeiture of estate," and the statutes relating to the descent of property in case of intestacy, which do not make property rights depend on the manner or cause of the death of the owner, show conclusively that the public policy of Illinois is against forfeiture, and different, in respect to the question here involved, from the public policy of England, Pennsylvania and the federal courts. There seems, however, to be still some force in the *Fauntleroy Case.* Lord Chancellor LYNDHURST'S suggestion that if an express contract of insurance against execution is contrary to public policy, so also is an implied one, seems to have value. But perhaps the answer to this is to be found in the argument of the Illinois court that an insurance policy payable to the estate of the insured is a species of property, in the nature of a chose in action, and should not be forfeited any more than any other property. On the other hand, it might be profitable to follow out a distinction which is apparent between an individual's relation to the state, and his relation to another individual by contract, and to consider the principle of forfeiture, or non-forfeiture, in that connection.

In *Burt* v. *Insurance Co.,* 187 U. S. 362, 47 L. Ed. 216 (1902), the United States Supreme Court, on similar facts, holds directly in line with the *Fauntleroy Case,* and even goes a step further. The plaintiff alleged that the insured was innocent of the crime for which he had been hanged, and the court held that, even if that were true, still the risk of execution for crime does not enter into and become a part of the contract because there can be no legal life insurance against the miscarriage of justice and the probability of judicial murder. "It is the policy of every state or organized society to uphold the dignity and integrity of its courts of justice. Such contracts would be speculations upon whether the courts would do justice.

They would tend to encourage a want of confidence in the efficiency of the courts." And, inasmuch as the contingency insured against is certain of occurrence, Mr. Justice BREWER thinks "there is an implied obligation on his [the insured's] part to do nothing to wrongfully accelerate the maturity of the policy."

The class of cases involving the construction of life policies which are silent as to suicide and the effect of illegal surgical operations furnishes principles more or less analogous to those in *Burt* v. *Ins. Co.*, supra. For example, in *Hatch* v. *Mut. Co.*, 120 Mass. 550, 21 Am. Rep. 541, where death resulted from an illegal operation, no recovery was allowed. And in an Alabama case it is said "It cannot be in the contemplation of the parties that the assured, by his own criminal act, shall deprive the contract of its material element [uncertainty as to time of death]; shall vary and enlarge the risk, and hasten the day of payment of the insurance money." *Supreme Commandery* v. *Ainsworth*, 71 Ala. 436. See also *Clift* v. *Schwabe*, 3 C. B. 437.

The holding of the Illinois court is plainly against the current of the decisions, light though it is, but support may possibly be found in suicide cases holding contrary to those cited above; and in cases where the insured has died as a result of attempting to commit a felony, the policy being silent, it has been held that the rights of the beneficiaries are not affected. *McDonald* v. *Order of Triple Alliance*, 57 Mo. App. 87.

The question seems to be capable of becoming as highly complicated and of giving rise to as many distinctions and variations in rulings as the suicide question under the silent policy. But, after all, there is much that can be said in favor of requiring insurance companies to make their contracts particular and specific, either by the exclusion or inclusion of risks, or holding them to strict liability. H. W. C.

JURISDICTION OF A COURT OF EQUITY TO RESTRAIN THE COMMISSION OF CRIMINAL ACTS.—The case of *State ex rel. Attorney General* v. *Canty et al.* (1907), — Mo. —, 105 S. W. 1078, involves the question of the jurisdiction of a court of equity to restrain the commission of acts which are criminal in their nature. A public bull fight performance conducted near one of the entrances to the exposition grounds at St. Louis was so brutal and degrading in its tendencies as to be a public nuisance. It does not appear, however, that any property interests were endangered or affected. A bill for an injunction was filed by the attorney general of the state, and the proprietors and performers were made respondents. The injunction was granted against both proprietors and performers, although WOODSON, J., thought that the injunction ought not to issue against the latter on the ground that the remedy against them by way of criminal prosecution was entirely adequate.

It is well settled that a court of equity has no jurisdiction to administer the criminal law. *Gee* v. *Pritchard* (1818), 2 Swanst. 402, 413; *Macaulay* v. *Schakell et al.* (1827), 1 Bligh N. R. 96, 127; *Att'y Gen'l* v. *Sheffield Gas Consumers Co.* (1852), 3 D. M. & G. 304, 320; *Emperor of Austria* v. *Day &*